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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/700,431	11/04/2003	Sanjeev Gupta		5648

7590 01/05/2007
Mark Terry
227 Michigan Av. #204
Miami Beach, FL 33139

EXAMINER

VO, TED T

ART UNIT	PAPER NUMBER
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2191

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/05/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/700,431

Applicant(s)

GUPTA ET AL.

Examiner

Ted T. Vo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11/04/03 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

1. This action is in response to the communication filed on 11/03/2003.

Claims 1-20 are pending in the application.

Specification

2. The specification of this application is object to. It appears that the block texts [0020] and [0021] (p. 8) in the section of BRIEF DESCRIPTION OF THE DRAWINGS do not related to any descriptions of a figure.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. The claims 9-16, 17-20 are rejected under 35 U.S.C 101 because the claimed invention is directed to non-statutory subject matter.

As per claims 9-16: Claims 9-16 are directed to a computer system, however, the recitations in the computer system merely direct to a program per se. The language "computer system" does not have any structures connecting to a physical and actual device of a computer, but covers a generic system like an implementation of programming entities or modules. The claims are merely a list per se of computer programming modules. A list of computer programming language fails to produce a tangible result. The claims, which fail to connect to, and/or to be implemented by, a real computer, remain a list per se, thus, fail to achieve the required status of having real world value.

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As per claims 17-20: Claims 17-20 are directed to a computer readable medium included with claimed subject matter, signals/wireless.

Refer to Application's spec, p. 39-40:

In this document, the terms "computer program medium," "computer usable medium," and "computer readable medium" are used to generally refer to media such as main memory 1506 and secondary memory 1512, removable storage drive 1516, a hard disk installed in hard disk drive 1514, and signals.

Furthermore, the computer readable medium may comprise computer readable information in a transitory state medium such as a network link and/or a network interface, including a wired network or a wireless network, that allow a computer to read such computer readable information.

The claimed subject matter, medium as signals or wireless, lacks a practical application of a judicial exception (law of nature, abstract idea, naturally occurring article/phenomenon) since it fails to produce a useful, concrete and tangible result.

Specifically, the claimed subject matter of signal/wireless does not produce a tangible result because the claimed subject matter fails to produce a result that is limited to having real world value rather than a result that may be interpreted to be abstract in nature data as energy. This produced result remains in the abstract and, thus, fails to achieve the required status of having real world value.

Double Patenting

5. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

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6. Claims 1-20 are provisionally rejected on the ground of nonstatutory double patenting over claims 1-17 of copending Application No. **11/147,479** (Pub # US 2005/0229151 A1). This is a provisional double patenting rejection since the conflicting claims have not yet been patented.

The subject matter claimed in the instant application is fully disclosed in the referenced copending application and would be covered by any patent granted on that copending application since the referenced copending application and the instant application are claiming common subject matter, as follows: Claims 1-17 of the US patent application serial No. 11/147,479 has all claimed subject matters presenting in the instant claims 1-20.

Furthermore, there is no apparent reason why applicant would be prevented from presenting claims corresponding to those of the instant application in the other copending application. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Microsoft Solution Framework, "MSF Project Management Discipline", v. 1.1, <http://www.microsoft.com/msf/>, p. 1-31, 6-2002 (hereinafter: MSF).

Given the broadest reasonable interpretation of followed claims in light of the specification.

As per Claim 1: MSF discloses,

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A method on a computer for providing critical chain-based project management across a plurality of projects, comprising:

generating a plurality of plans, each of the plurality of plans corresponding to one of the plurality of projects, wherein a project comprises at least one task (See p. 23, Figure 6: plurality of plans; see p. 21 Project Plans/table; left table: projects, right table: task);

generating buffers for each of the plurality of projects (see p. 29, Managing Buffer time, adding buffer time to project schedules);

reconciling project resources among the plurality of projects (See p. 21/tables; implement under Figure 6 of p. 23); and

executing (See table in p. 8 shows managing/planning/estimating/scheduling. See p. 22, second line from the last, 'Detailed descriptions of how the tasks are to be performed' (Examiner Note: the term "task" by definition is a function to be performed. Therefore an act upon the task in the reference reads "executing", because this reference performs every act on each of its given tasks)) the plurality of project plans, including allowing a user to manage the buffers across the plurality of projects (see description for each planning in the table of p. 8; e.g., in the schedule management, it includes management of timing, where in p. 29, the Managing Buffer Time already discussed allowing a user to add time to project schedules).

As per Claim 2: MSF discloses, *The method of claim 1, wherein the executing step further comprises: executing the plurality of project plans, including providing to the user information associated with buffers for the plurality of projects, so as to evaluate the status of the plurality of projects. See p. 6, 'single source of information on project status'; see p. 17, 'routine tracking of status, cost, and scheduled'; see p. 28, PERT, and see p. 29, Managing Buffer Time).*

As per Claim 3: MSF discloses, *The method of claim 2, wherein the executing step further comprises: executing the plurality of project plans, including providing to the user task prioritization for any task of the plurality of projects, wherein task prioritization is calculated across the plurality of projects. See p. 29, Time-Boxing.*

As per Claim 4: MSF discloses, *The method of claim 3, further comprising at least one of: allowing the user to manage, over a network interface, the buffers across the plurality of projects; providing to the*

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user, over a network interface, information associated with buffers for the plurality of projects; and providing to the user, over a network interface, task prioritization for any task of the plurality of projects.

Note the above limitation requires a user act upon, the MSF is a framework, that allows the user to manage his project plan, provided by the MSF with using buffer time, and schedule, disciplines, time-boxing, via common interface of Internet using URL links or within Microsoft Network (see p. 4 Overview of Frameworks, or Figures 2, 3, 4).

As per Claim 5: The limitation of Claim 5 has the claimed functionality corresponding to the limitation of Claim 1. See rationale addressed in the rejection of claim 1 above.

As per Claims 6-8: The limitations in Claims 6-8 have the claimed functionality corresponding to the limitations of Claims 2-4. See rationale addressed in the rejection of claims 2-4 above.

As per Claim 9: The limitation of Claim 9 is list of modules where the modules' functionality corresponds to the limitation of Claim 1. See rationale addressed in the rejection of claim 1 above.

As per Claims 10-12: The limitations in Claims 10-12 are further lists of modules where the modules' functionality corresponds to the limitations of Claims 2-4. See rationale addressed in the rejection of claims 2-4 above.

As per Claim 13: The limitation of Claim 13 is list of modules where the modules' functionality corresponds to the limitation of Claim 1. See rationale addressed in the rejection of claim 1 above.

As per Claims 14-16: The limitations in Claims 14-16 are further lists of modules where the modules' functionality corresponds to the limitations of Claims 2-4. See rationale addressed in the rejection of claims 2-4 above.

As per Claim 17: The limitation of Claim 17 is computer medium which has the claimed functionality corresponding to the limitation of Claim 1. See rationale addressed in the rejection of claim 1 above.

As per Claims 18-20: The limitations in Claims 18-20 are further computer media which have the claimed functionality corresponding to the limitations of Claims 2-4. See rationale addressed in the rejection of claims 2-4 above.

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Conclusion


9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ted T. Vo whose telephone number is (571) 272-3706. The examiner can normally be reached on 8:00AM to 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wei Y. Zhen can be reached on (571) 272-3708.

The facsimile number for the organization where this application or proceeding is assigned is the Central Facsimile number **571-273-8300**.

Any inquiry of a general nature or relating to the status of this application should be directed to the TC 2100 Group receptionist: 571-272-2100. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TTV
December 22, 2006


TED VO
PRIMARY EXAMINER
TECHNOLOGY CENTER 2100